
SENATE BILL No. 560

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.5; IC 14-33-7-1; IC 36-9-23-25;
IC 36-9-25-14.

Synopsis: Utility and special taxing district property. Provides that a special taxing district or utility may not tax property for purposes related to the district or the utility unless the property is served by the district or the utility.

Effective: July 1, 2005.

Antich-Carr

January 20, 2005, read first time and referred to Committee on Tax and Fiscal Policy.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 560

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1.5-2-26 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) To pay the
3 principal and interest on bonds issued for the construction, acquisition,
4 extension, or improvement of a municipally owned utility, the
5 municipal legislative body may levy an annual tax of sufficient amount
6 on all taxable property of the municipality **that is served by the**
7 **municipally owned utility for which the bonds are issued.**

8 (b) If the legislative body:

9 (1) has contracted with a person for supplying utility services or
10 has agreed to lease or purchase utility services; and

11 (2) has, in the contract, agreed to pay a stated rental, a stipulated
12 purchase price, or other compensation to the person, or has issued
13 bonds to pay for stock in the company or to purchase the plant;
14 it may levy an annual tax for payment of the rent or other consideration
15 or purchase price to be paid for utility services, or for the purchase
16 price of a plant, and to pay the principal and interest on the bonds.

17 (c) The tax under this section shall be levied and collected as other



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1 municipal taxes are levied and collected, and the proceeds shall be
2 used only for the purpose for which the tax was levied.

3 SECTION 2. IC 8-1.5-4-3 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The department of
5 waterworks has jurisdiction over a special taxing district (referred to as
6 "the waterworks district" in this chapter) that consists of:

- 7 (1) in the case of a second class city located in a county having a
8 population of more than one hundred seventy thousand (170,000)
9 but less than one hundred eighty thousand (180,000), all the
10 territory within that county **that is served by the waterworks;** or
11 (2) in the case of any other municipality, all the territory ~~within~~
12 ~~the corporate boundaries of the municipality;~~ or the territory
13 served by the waterworks, **if whether the territory is** larger or
14 smaller than the corporate boundaries **of the municipality.**

15 SECTION 3. IC 8-1.5-5-5 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The **legislative**
17 **body shall, in the** ordinance adopting the provisions of this chapter,
18 creates a special taxing district that includes the following:

- 19 (1) For a consolidated city, all of the territory of the county
20 containing the consolidated city **that receives storm water**
21 **collection and disposal services from the department.**
22 (2) For all other municipalities, all territory within the corporate
23 boundaries of the municipality **that receives storm water**
24 **collection and disposal services from the department.**
25 (3) For a county, all the territory in the county that is not located
26 in a municipality.

27 (b) **As to each municipality to which this chapter applies,**
28 **including a consolidated city,** all the territory within the district
29 constitutes a special taxing district for the purpose of providing for the
30 collection and disposal of storm water of the district in a manner that
31 protects the public health and welfare and for the purpose of levying
32 special benefit taxes for purposes of storm water collection and
33 disposal. All territory in the district and all territory added to the
34 district is considered to have received a special benefit from the storm
35 water collection and disposal facilities of the district equal to or greater
36 than the special taxes imposed on the territory under this chapter in
37 order to pay all or part of the costs of such facilities.

38 SECTION 4. IC 14-33-7-1 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) All the real
40 property in the district **that is served by the conservancy district,**
41 except the property that is exempt under section 4 of this chapter,
42 constitutes a taxing district for the purpose of levying special benefit

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taxes to pay for the following:

- (1) The expenses of establishing the district.
- (2) General preliminary and administrative expenses.
- (3) The expenses of preparing the district plan.
- (4) The expenses of putting the district plan into operation by constructing the necessary works.
- (5) The expenses of operating and maintaining the district.

(b) The special tax:

- (1) equals the amount of benefits received; and
- (2) must be based on return for the benefits.

SECTION 5. IC 36-9-23-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. (a) The municipal legislative body shall, by ordinance, establish just and equitable fees for the services rendered by the sewage works, and provide the dates on which the fees are due.

(b) Just and equitable fees are the fees required to maintain the sewage works in the sound physical and financial condition necessary to render adequate and efficient service. The fees must be sufficient to:

- (1) pay all expenses incidental to the operation of the works, including legal expenses, maintenance costs, operating charges, repairs, lease rentals, and interest charges on bonds or other obligations;
- (2) provide the sinking fund required by section 21 of this chapter;
- (3) provide adequate money to be used as working capital; and
- (4) provide adequate money for improving and replacing the works.

Fees established after notice and hearing under this chapter are presumed to be just and equitable.

(c) The fees are payable by the owner of each lot, parcel of real property, or building that:

- (1) is connected with the sewage works by or through any part of the municipal sewer system; or
- (2) uses or is served by the works.

~~Unless the municipal legislative body finds otherwise,~~ The works are considered to benefit every lot, parcel of real property, or building connected ~~or to be connected~~ with the municipal sewer system as a result of construction work under the contract, and the fees shall be billed and collected accordingly.

(d) The municipal legislative body may use one (1) or more of the following factors to establish the fees:

- (1) A flat charge for each sewer connection.

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- (2) The amount of water used on the property.
- (3) The number and size of water outlets on the property.
- (4) The amount, strength, or character of sewage discharged into the sewers.
- (5) The size of sewer connections.
- (6) Whether the property has been or will be required to pay separately for any part of the sewage works.
- (7) Whether the property, although vacant or unimproved, is benefited by a local or lateral sewer because of the availability of that sewer. However, the owner must have been notified, by recorded covenants and restrictions or deed restrictions in the chain of title of ~~this~~ **the owner's** property, that a fee or assessment for sewer availability may be charged, and the fee may reflect only the capital cost of the sewer and not the cost of operation and maintenance of the sewage works.
- (8) The cost of collecting, treating, and disposing of garbage in a sanitary manner, including equipment and wages.
- (9) The amount of money sufficient to compensate the municipality for the property taxes that would be paid on the sewage works if the sewage works were privately owned.
- (10) Any other factors the legislative body considers necessary.

Fees collected under subdivision (8) may be spent for that purpose only after compliance with all provisions of the ordinance authorizing the issuance of the revenue bonds for the sewage works. The board may transfer fees collected in lieu of taxes under subdivision (9) to the general fund of the municipality.

(e) The municipal legislative body may exercise reasonable discretion in adopting different schedules of fees, or making classifications in schedules of fees, based on variations in:

- (1) the costs, including capital expenditures, of furnishing services to various classes of users or to various locations; or
- (2) the number of users in various locations.

SECTION 6. IC 36-9-25-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) As to each municipality to which this chapter applies:

- (1) all the territory included within the corporate boundaries of the municipality **that is served by the department of the municipality;** and
- (2) any territory, town, addition, platted subdivision, or unplatted land lying outside the corporate boundaries of the municipality that has been taken into the district in accordance with a prior statute, the sewage or drainage of which discharges into or

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1 through the sewage system of the municipality;
 2 constitutes a special taxing district for the purpose of providing for the
 3 sanitary disposal of the sewage of the district in a manner that protects
 4 the public health and prevents the undue pollution of watercourses of
 5 the district.

6 (b) Upon request by:

7 (1) a resolution adopted by the legislative body of another
 8 municipality in the same county; or

9 (2) a petition of the majority of the resident freeholders in a
 10 platted subdivision or of the owners of unplatted land outside the
 11 boundaries of a municipality, if the platted subdivision or
 12 unplatted land is in the same county;

13 the board may adopt a resolution incorporating all or any part of the
 14 area of the municipality, platted subdivision, or unplatted land into the
 15 district.

16 (c) A request under subsection (b) must be signed and certified as
 17 correct by the secretary of the legislative body, resident freeholders, or
 18 landowners. The original shall be preserved in the records of the board.
 19 The resolution of the board incorporating an area in the district must be
 20 in writing and must contain an accurate description of the area
 21 incorporated into the district. A certified copy of the resolution, signed
 22 by the president and secretary of the board, together with a map
 23 showing the boundaries of the district and the location of additional
 24 areas, shall be delivered to the auditor of the county within which the
 25 district is located. It shall be properly indexed and kept in the
 26 permanent records of the offices of the auditor.

27 (d) In addition, upon request by ten (10) or more interested resident
 28 freeholders in a platted or unplatted territory, the board may define the
 29 limits of an area within the county and including the property of the
 30 freeholders that is to be considered for inclusion into the district.
 31 Notice of the defining of the area by the board, and notice of the
 32 location and limits of the area, shall be given by publication in
 33 accordance with IC 5-3-1. Upon request by a majority of the resident
 34 freeholders of the area, the area may be incorporated into the district in
 35 the manner provided in this section. The resolution of the board
 36 incorporating the area into the district and a map of the area shall be
 37 made and filed in the same manner.

38 (e) In addition, a person owning or occupying real property outside
 39 the district may enter into a sewer service agreement with the board for
 40 connection to the sewage works of the district. If the agreement
 41 provides for connection at a later time, the date or the event upon
 42 which the service commences shall be stated in the agreement. The

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1 agreement may impose any conditions for connection that the board
 2 determines. The agreement must also provide the amount of service
 3 charge to be charged for connection if the persons are not covered
 4 under section 11 of this chapter, with the amount to be fixed by the
 5 board in its discretion and without a hearing.

6 (f) All sewer service agreements made under subsection (e) shall be
 7 recorded in the office of the recorder of the county where the property
 8 is located. The agreements run with the property described and are
 9 binding upon the persons owning or occupying the property, their
 10 personal representatives, heirs, devisees, grantees, successors, and
 11 assigns. Each recorded agreement that provides for the property being
 12 served to be placed on the tax rolls shall be certified by the board to the
 13 auditor of the county where the property is located. The certification
 14 must state the date the property is to be placed on the tax rolls, and
 15 upon receipt of the certification together with a copy of the agreement,
 16 the auditor shall immediately place the property certified upon the rolls
 17 of property subject to the levy and collection of taxes for the district.
 18 An agreement may provide for the collection of a service charge for the
 19 period services are rendered before the levy and collection of the tax.

20 (g) Except as provided in subsection (i), sewer service agreements
 21 made under subsection (e) must contain a provision that persons (other
 22 than municipalities) who own or occupy property agree for themselves,
 23 their executors, administrators, heirs, devisees, grantees, successors,
 24 and assigns that they will:

- 25 (1) neither object to nor file a remonstrance against the proposed
- 26 annexation of the property by a municipality within the
- 27 boundaries of the district;
- 28 (2) not appeal from an order or a judgment annexing the property
- 29 to a municipality; and
- 30 (3) not file a complaint or an action against annexation
- 31 proceedings.

32 (h) This section does not affect any sewer service agreements
 33 entered into before March 13, 1953.

34 (i) Subsection (g) does not apply to a landowner if all of the
 35 following conditions apply:

- 36 (1) The landowner is required to connect to a sewer service
- 37 because a person other than the landowner has polluted or
- 38 contaminated the area.
- 39 (2) The costs of extension of service or connection to the sewer
- 40 service are paid by a person other than the landowner or the
- 41 municipality.

42 SECTION 7. [EFFECTIVE JULY 1, 2005] (a) **Except as provided**

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1 in subsection (b), after December 31, 2005, no additional property
 2 taxes or fees may be levied or imposed against property that:

3 (1) before July 1, 2005, was subject to the imposition of
 4 property taxes or fees under any of the provisions amended by
 5 this act; and

6 (2) after June 30, 2005, no longer meets the criteria for the
 7 imposition of those property taxes or fees.

8 (b) Except as provided in subsection (c), property described in
 9 subsection (a) remains subject, after December 31, 2005, to
 10 property taxes or fees described in subsection (a) if:

11 (1) any of the property taxes or fees were pledged before July
 12 1, 2005, to the payment of bonds, leases, or other obligations
 13 that were issued or entered into before July 1, 2005; and

14 (2) any of the principal of or interest on the bonds, or the lease
 15 rentals due under the leases, remain unpaid.

16 (c) Property described in subsection (a) is not subject to
 17 property taxes or fees pledged to the payment of any bonds, leases,
 18 or other obligations that are:

19 (1) issued;

20 (2) entered into;

21 (3) reimposed;

22 (4) renewed; or

23 (5) otherwise extended;

24 after June 30, 2005.

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